

§ 295.11

experience, resources and other qualifications necessary to execute the obligations of the MSP Operating Agreement, or MARAD, after consultation with the Secretary of Defense, determines that the vessel is militarily useful for meeting the sealift needs of the United States.

§ 295.11 Applications.

(a) *Action by MARAD*—(1) *Time Deadlines*. Not later than 30 days after the enactment of the Maritime Security Act of 1996, Pub. L. 104-239, MARAD shall accept applications for Enrollment of vessels in the MSP Fleet. Within 90 days after receipt of a completed application, MARAD shall enter into a MSP Operating Agreement with the applicant or provide in writing the reason for denial of that application.

(2) *Closure of Applications*. Applications for MSP Operating Agreements shall be made only at such time as, and in response to, publication of invitations to apply by MARAD in the FEDERAL REGISTER. After the Administrator has fully allocated authorized contracting authority through the award of the maximum number of vessels allowed under § 295.30(a), MARAD will not accept any applications for award of new Operating Agreements until additional contracting authority becomes available, or existing contracting authority reverts back to MARAD.

(3) *Reflagging for Eligible vessels*. Except as provided in paragraph (a)(4) of this section, an applicant may remove a vessel from U.S. registry without MARAD approval if an application for a MSP Operating Agreement has been filed for that vessel, the applicant is qualified, and it has been determined by MARAD to be eligible under MSA section 651(b)(1) under a priority for which sufficient funds are available and the Administrator has not awarded an Operating Agreement for the vessel within 90 days of that application.

(4) *Reflagging ODS and MSC chartered vessels*. Vessels eligible under MSA section 651(b)(1) which are also subject to ODS contracts or on charter to MSC, and for which applications have been denied pursuant to § 295.11(a)(1) of this part, may be removed from U.S. registry only after those agreements have

46 CFR Ch. II (10-1-12 Edition)

expired and only after the age requirement in section 9(e)(3) of the Shipping Act, 1916 (46 App. U.S.C. 808) has been met.

(b) *Action by the Applicant*. Applicants for MSP Payments shall submit information on the following (Note: MARAD will accept electronic options (such as facsimile and Internet) for transmission of required information to MARAD, if practicable):

(1) *Intermodal network*. A statement describing its operating and transportation assets, including vessels, container stocks, trucks, railcars, terminal facilities, and systems used to link such assets together;

(2) *Diversity of trading patterns*. A list of countries and trade routes serviced along with the types and volumes of cargo carried;

(3) *Vessel construction date*;

(4) *Vessel type and size*; and

(5) *Military Utility*. An assessment of the value of the vessel to DOD sealift requirements.

(Approved by the Office of Management and Budget under Control Number 2133-0525)

[62 FR 37737, July 15, 1997, as amended at 68 FR 62537, Nov. 5, 2003; 69 FR 61451, Oct. 19, 2004]

§ 295.12 Priority for awarding agreements.

Subject to the availability of appropriations, MARAD shall enter into individual MSP Operating Agreements for Eligible Vessels according to the following priorities:

(a) *First priority requirements*. First priority shall be accorded to any Eligible Vessel meeting the following requirements:

(1) *U.S. citizen ownership*. Vessels owned and operated by persons who are Citizens of the United States as defined in § 295.2; or

(2) *Other corporations*. Vessels less than 10 years of age and owned and operated by a corporation that is:

(i) eligible to document a vessel under 46 U.S.C. chapter 121; and

(ii) affiliated with a corporation operating or managing for the Secretary of Defense other vessels documented under 46 U.S.C. chapter 121, or chartering other vessels to the Secretary of Defense.